



## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

### 46 CFR Parts 10, 11, and 15

[Docket No. USCG-2020-0069]

RIN 1625-AC63

### Pilots' Medical Certificate Validity Period

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

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**SUMMARY:** The Coast Guard is issuing this final rule to extend the maximum validity period of merchant mariner medical certificates issued to first-class pilots, and masters or mates serving as pilot, from 2 years to 5 years. We are issuing this rule in response to federal advisory committee recommendations and a petition for rulemaking. This rule will reduce the frequency of medical certificate application submissions to the Coast Guard. The rule maintains the requirement for pilots to complete annual physicals and provides the Coast Guard opportunity to review the medical examinations of pilots who may become medically unqualified between medical certificate applications; therefore, the rule does not compromise safety.

**DATES:** This final rule is effective February 1, 2023.

**ADDRESSES:** To view documents mentioned in this preamble as being available in the docket, go to <https://www.regulations.gov>, type USCG-2020-0069 in the search box and click "Search." Next, in the Document Type column, select "Supporting & Related Material."

**FOR FURTHER INFORMATION CONTACT:** For information about this document call or email Eric Malzkuhn, U. S. Coast Guard Office of Merchant Mariner

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### **I. Abbreviations**

BLS	Bureau of Labor Statistics
CFR	Code of Federal Regulations
DHS	Department of Homeland Security
FCP	First-class pilot
FR	<b>Federal Register</b>
GRT	Gross registered tons
GS	General service
GSA	General Services Administration
MMC	Merchant Mariner Credential
MMLD	Merchant Mariner Licensing and Documentation database
MMD	Merchant Mariner's Document
MPH	Miles per hour
NMC	National Maritime Center
NPRM	Notice of proposed rulemaking
OMB	Office of Management and Budget
REC	Regional Examination Center
§	Section

STCW Code	Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended
STCW Convention	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers
STCW final rule	“Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements” final rule
U.S.C.	United States Code
USPS	U.S. Postal Service

## II. Purpose, Basis, and Regulatory History

The purpose of this rule is to extend the maximum validity period of merchant mariner medical certificates issued to first-class pilots (FCPs), and masters or mates serving as pilot, from 2 years to 5 years, which will reduce the frequency that they must submit a medical certificate application to the Coast Guard. Reducing the frequency of medical certificate applications will reduce the administrative burden on the mariner submitting the application and on the Coast Guard when processing the application and issuing the medical certificate. First-class pilots, and masters and mates serving as pilot on vessels of 1,600 gross registered tons or more, will be required to submit the results of their annual physical examinations to the Coast Guard between medical certificate applications if the mariner (1) does not meet the physical ability requirements; (2) has a condition that does not meet the medical, vision, or hearing requirements; (3) is deemed “not recommended” by a medical practitioner for a medical certificate; or (4) if the results are requested by the Coast Guard. We are delaying the effective date of this final rule several months after publication in the **Federal Register** because the Coast Guard needs additional time to fully implement the necessary changes to the Merchant Mariner Licensing and Documentation database used by the National Maritime Center to issue Merchant Mariner Credentials and maintain records of U.S. merchant mariners.

The legal basis of this rule is Title 46 of the United States Code (U.S.C.), Section 7101(c), which authorizes the Coast Guard to issue licenses to pilots who are found qualified as to physical fitness and other qualifications in Section 7101(c). Title 46

U.S.C. Section 7101(e)(2) further specifies that an individual may only be issued a license as pilot if they are found to be of sound health and have no physical limitations that would hinder or prevent them in the performance of a pilot's duties. Section 7101(e)(3) also requires each pilot serving on vessels 1,600 gross registered tons (GRT) or greater to have a thorough physical examination each year while holding the license. The Secretary of the Department of Homeland Security (DHS) has delegated these statutory authorities to the Coast Guard through DHS Delegation No. 00170.1(92)(e), Revision No. 01.2, which generally authorizes the Coast Guard to determine and establish the experience and professional qualifications required for the issuance of credentials. Additionally, 14 U.S.C. 102(3) grants the Coast Guard broad authority to issue and enforce regulations for the promotion of safety of life and property on waters subject to the jurisdiction of the United States.

On August 27, 2021, the Coast Guard published a notice of proposed rulemaking (NPRM) titled "Pilots' Medical Certificate Validity Period" (volume 86 of the **Federal Register** (FR) at page 48090), requesting comments on extending the pilot medical certificate validity period to 5 years and adding specific reporting requirements for the interim years. The Coast Guard received six comment submissions to the docket. A detailed description of the background and discussion of the proposed changes can be found in that NPRM.

### **III. Background**

The Coast Guard issues Merchant Mariner Credentials (MMCs) and medical certificates to qualified mariners who meet the requirements in Title 46 of the Code of Federal Regulations (CFR), subchapter B, parts 10 through 13. The requirements for medical certification are described in 46 CFR part 10, subpart C. According to § 10.301, a medical certificate will be issued for various periods of time based upon the endorsements the mariner holds. Under this final rule, the maximum validity period of

the medical certificate for mariners serving as an FCP, or masters or mates serving as pilot under 46 CFR 15.812, for which the maximum validity period of the medical certificate had been 2 years, will now have a maximum validity period of 5 years. The validity period of the medical certificate will remain 5 years for mariners serving on national MMC endorsements, and will remain 2 years for mariners engaged on vessels to which the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) applies. Mariners may not be employed in a position requiring an MMC unless they hold a valid medical certificate, as described in § 15.401(c).

In accordance with § 11.709, FCPs, and masters or mates serving as pilot on vessels of 1,600 GRT or more, are required to have an annual physical examination that meets the medical and physical requirements described in part 10 subpart C. This annual physical examination requirement for pilots serving on vessels of 1,600 GRT or more has been in place since the enactment of the Port and Tanker Safety Act of 1978 (Pub. L. 95–474) and is codified in 46 U.S.C. 7101(e)(3). This annual physical examination is a statutory requirement and will still be required after this rulemaking.

In July 2017, the Coast Guard tasked the Merchant Marine Personnel Advisory Committee, the Merchant Mariner Medical Advisory Committee, and the Great Lakes Pilotage Advisory Committee with identifying regulations, guidance, or information collections that that were outdated, ineffective, or exceeded benefits and imposed administrative burdens or costs on the maritime industry (see 82 FR 32511, 82 FR 32513, and 82 FR 34909).

The advisory committees concluded that the 2-year maximum validity period of the medical certificate for FCPs poses a burden on mariners and suggested the Coast Guard extend the period of validity to 5 years. Additionally, in July 2018, the Coast Guard received a petition for rulemaking from the American Pilots Association

requesting that we change the maximum period of validity of the medical certificate from 2 years to 5 years for FCPs and masters or mates serving as pilot. You can view the American Pilots' Association's petition for rulemaking and our response by searching the docket number "USCG-2018-0709" on <https://www.regulations.gov>.

#### **IV. Discussion of Comments and Changes from Proposed Rule**

In response to the August 27, 2021 NPRM (86 FR 48090), the Coast Guard received six comment submissions to the docket. Three comments expressed support for the proposed rule, two comments disagreed with the proposed rule, and the final comment neither expressed support nor disagreement with the proposed rule. We summarize the comments below. In situations where multiple commenters raised similar issues, we attempt to provide one response.

At the end of this section, we also discuss three clarifying changes to the regulatory text from what was proposed in the NPRM.

A comment from a towing company supported the Coast Guard's proposed rule, stating that it would consolidate all phases of the process to renew an MMC and make the process, as a whole, less burdensome. The commenter also expressed belief that the overall risk of a marine incident occurring on navigable waters due to a pilot's or master's medical condition to be relatively low.

A comment from the American Pilots Association supported the changes in the proposed rule, including the reporting requirements. The American Pilots Association concurred with our statement in the NPRM that this change would not compromise or decrease navigational safety. The American Pilots Association asserted that these changes would actually increase safety because of the new requirement that pilots must submit the results of their annual physical examination to the Coast Guard for review if the medical practitioner determines that they no longer meet the medical and physical standards of 46 CFR, part 10, subpart C.

Another comment simply stated that they agreed with the NPRM.

Two comments from mariners disagreed with the proposed rule. Both raised concerns that the proposed rule would decrease safety because pilots would receive less medical scrutiny at a time when aging pilots are more likely to develop physical ailments and limitations. One of these comments suggested that the proposed rule would mean that the Coast Guard would have less opportunity to remove an endorsement or review further medical proof of ability to act in the capacity of shipboard pilot. This same comment also pointed out that the actual physical examination is only a few hours long and should be considered part of the requirements of the job. The other comment disagreeing with the NPRM suggested that it would be better to require a stress test from a board-certified cardiologist for those mariners seeking to hold a first class pilot endorsement.

The Coast Guard disagrees that the rule would decrease safety and that we should add a stress test for FCPs. We expect the final rule will not decrease safety because it maintains the current medical and physical requirements for FCPs and for masters and mates serving as pilot. Specifically, the final rule maintains the provisions of 46 CFR 11.709 requiring an annual physical examination for FCPs and those serving as pilot. Each annual physical examination must meet the requirements of 46 CFR part 10 subpart C by ensuring that the mariner has no conditions that pose a significant risk of sudden incapacitation or debilitating complication, and by documenting any condition requiring medication that impairs cognitive ability, judgment, or reaction time. The examination must also document the individual's ability to meet the physical ability requirements of 46 CFR 10.304(c), the vision requirements of 46 CFR 10.305, and the hearing requirements of 46 CFR 10.306. Therefore, this final rule will continue to provide an opportunity to identify individuals who no longer meet the medical standards of 46 CFR part 10 subpart C.

The Coast Guard also expects the final rule to maintain the same level of safety on navigable waters because the rule will require FCPs and those serving as pilot to submit the results of their annual physical examinations to the Coast Guard no later than 30 calendar days after completion of the physical examination if the mariner does not meet the physical ability requirements or the medical, vision, or hearing requirements; if the mariner is deemed “not recommended” by a medical practitioner for a medical certificate; or within 30 days upon request by the Coast Guard. If the results of an examination are requested by the Coast Guard, the mariner must submit the results no later than 30 days after the date of the request. This will allow the Coast Guard the opportunity to review the examination to determine whether the individual is physically and medically fit to pilot a vessel.

Furthermore, the Coast Guard expects the final rule to maintain the same level of safety on navigable waters because it retains the provisions of revised 46 CFR 11.709(c), which declares, in part, that an individual’s FCP endorsement becomes invalid if the person does not meet the physical examination and reporting requirements in this section. Individuals may not operate under the authority of an invalid endorsement, and those who do may be subject to enforcement action, up to and including suspension and revocation under § 10.235. Additionally, the revised provision in § 11.709(d) states that masters and mates may not serve as pilot on vessels 1600 GRT or more if they do not comply with the physical examination and reporting requirements.

Lastly, Coast Guard expects that the final rule will maintain the same level of safety on navigable waters because it does not extend the medical certificate validity period for individuals who have medical conditions that warrant time-limited medical certificates; nor does it remove reporting requirements for individuals with medical waivers.



With regard to the comment that all FCPs should be required to undergo stress testing by a cardiologist, changing the components of the physical examination requirements for FCPs and masters and mates is outside the scope of this rulemaking. It is important to note that the Coast Guard did not propose any changes to the components of the physical examination requirements for FCPs and masters and mates. The Coast Guard believes that the current physical examination requirements are sufficient for pilots at this time and would not propose changes to the physical examination requirements without information to support such a proposal. No changes to the physical examination requirements would be made without first issuing a proposed rulemaking and following notice-and-comment procedures.

The sixth comment submission we received was from an instructor who stated that their students reviewed the NPRM while studying regulatory policy and took a vote, with the majority supporting the proposed changes.

There are three clarifying changes to the regulatory text of this final rule from the NPRM.

The first change is separating the two general physical examination reporting requirements that, in the NPRM, were combined in § 11.709(b). In the final rule, we are placing the 5-year physical exam submission requirement into new paragraph (b)(1), and the four supplemental reporting requirements into paragraph (b)(2). The four reporting requirements, for when the mariner does not meet the medical requirements or when requested by the Coast Guard, will be in (b)(2)(i) through (b)(2)(iv). Separating the reporting requirements into subparagraphs will make it clearer to the reader that there are multiple reporting requirements.

The second clarifying edit is in § 11.709(b)(2)(iii), regarding when the examining medical practitioner documents that the individual is not recommended for a medical certificate or needs further review by the Coast Guard. This edit clarifies that the

recommendation should be recorded on form CG-719K, the “Application for Medical Certificate.”

The third clarifying change is in § 11.709(b)(2)(iv). This edit clarifies that the physical examination results must be submitted to the Coast Guard no later than 30 days from the date of the request, and not within 30 days of completion of the physical examination, as stated in the proposed rule. Because submission within 30 days of completion of the physical examination would not have been applicable in all cases where the Coast Guard requests the results, we clarified that the mariner must submit the results of an examination no later than 30 days after the request.

A detailed description of the regulatory changes implemented by this final rule follows.

## **V. Discussion of the Rule**

This rule increases the 2-year maximum period of validity of the medical certificate for FCPs and masters or mates serving as pilot to a 5-year maximum period of validity. FCPs and masters or mates serving as pilot will be required to submit the results of a physical examination, recorded on form CG-719K, the “Application for Medical Certificate,” every 5 years to the Coast Guard. The following provides a section-by-section discussion of the changes.

### *A. 46 CFR 10.301: Pilot Medical Certificate Period of Validity*

The Coast Guard is amending 46 CFR 10.301, which contains the general requirements for meeting the medical and physical standards for the issuance of medical certificates to mariners. We are extending the 2-year maximum period of validity of the medical certificate for FCPs, and those serving as pilot, by deleting § 10.301(b)(2), which contains the 2-year maximum provision. This section will state that pilots will be issued a medical certificate with a maximum validity period of 5 years.

The standard maximum periods of validity for medical certificates in § 10.301(b)(1) for all persons employed or engaged onboard vessels to which the STCW Convention applies remains 2 years. With this final rule, the standard maximum period of validity for medical certificates in § 10.301(b) for national endorsements (including FCPs and mariners serving as pilot) will be 5 years. FCPs and masters or mates serving as pilot will generally only have to submit a medical certificate application to the Coast Guard every 5 years. Pilots holding a medical certificate with a 2-year validity period will be issued a medical certificate with 5-year maximum period of validity at their next medical certificate issuance, unless the certificate is time-limited due to a medical condition. This change reduces the administrative burden on FCPs, masters and mates serving as pilot, and the Coast Guard.

This rule does not change the regulations in § 10.303 regarding medical waivers, limitations, and restrictions for not meeting the medical and physical requirements of § 10.302. If the medical or physical standards are not met, the Coast Guard may grant waivers with conditions, such as operational limitations or restrictions on the medical certificate. Certain conditions, such as a need for more frequent monitoring of the mariner's medical condition, may result in the issuance of a time-limited medical certificate that would be valid for a shorter period than the maximum period of 5 years.

The medical certificate maximum validity period of 5 years will apply to all pilots (excluding pilots with time limited medical certificates due to medical condition), regardless of the tonnage of the vessel they are serving on. The Coast Guard believes that this increase in the validity period will not compromise maritime safety, as the rule does not relax the annual physical examination requirement for FCPs or masters and mates serving as pilot. Instead, we expect that the rule will support greater transparency regarding a pilot's medical fitness because it includes a new requirement that pilots must submit the results of their annual examination to the Coast Guard for review if the

medical practitioner determines that they no longer meet the medical and physical standards of 46 CFR, part 10, subpart C.

Prior to this final rule taking effect, FCPs and masters or mates serving as pilot exclusively on vessels of less than 1,600 GRT were issued medical certificates with a maximum validity period of 2 years, and were required to submit the physical examination results with their application for a new medical certificate every 2 years. These mariners are not subject to the annual physical examination requirement in § 11.709 and are not subject to the new submission requirements in § 11.709 of this rule. Pilots, masters, and mates who serve as pilot only on vessels less than 1,600 GRT will be issued medical certificates with a maximum validity period of 5 years and will submit the results of a physical examination to the Coast Guard every 5 years when applying for a new medical certificate.

In the rule titled “Implementation of the Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, and Changes to National Endorsements,” (78 FR 77796, Dec. 24, 2013)(STCW final rule), which took effect on March 24, 2014, an error was made in Table 15.812(e)(1) indicating that mariners serving as pilot on vessels less than 1,600 GRT were required to complete an annual physical examination. The supporting text in § 15.812 remained accurate and did not require these mariners to complete the annual physical examination. This rule corrects the table by removing the requirement for an annual physical examination. Masters and mates serving as pilots on vessels less than 1,600 GRT were not required to take an annual physical examination either before or after the STCW final rule.

Lastly, paragraph § 10.301(b) is dedicated to establishing periods of validity, and § 10.301(b)(4) is not related to periods of validity. Therefore, in this rule, § 10.301(b)(4)

is redesignated into its own paragraph in § 10.301(c). As a result, current § 10.301(c) is redesignated as § 10.301(d).

*B. 46 CFR 11.709: Annual Physical Examination Requirements for Pilots of Vessels of 1,600 GRT or more*

Section 11.709 contains the requirement for pilots of vessels 1,600 GRT or more to undergo an annual physical examination. This section specifies when the annual physical examinations must be conducted, how the examination results are recorded, and how often the examination results are reported to the Coast Guard.

To ensure consistency with 46 U.S.C. 7101(e)(3), we clarify the applicability of this section by including masters or mates serving as pilot on vessels of 1,600 GRT or more, under § 15.812, in the introductory text of § 11.709(b). Adding these mariners to § 11.709(b) clarifies the applicability of the annual physical examination requirements.

Paragraph (b) of this section currently states that the examination results are to be reported to the Coast Guard every other year to coincide with the current 2-year maximum period of validity of medical certificates. Because this rule extends the pilot's medical certificate to a 5-year maximum period of validity, we are also removing the every-other-year submission requirement of form CG-719K for pilots. This rule revises the section to state that the physical examination results must be submitted on form CG-719K to the Coast Guard every 5 years, in accordance with the medical certificate application requirements in §§ 10.301 and 10.304. In practice, pilots who meet the medical and physical standards in 46 CFR part 10 will generally be required to report the results of the annual examination to the Coast Guard only when applying for a medical certificate, every 5 years.

The Coast Guard recognizes that when medical certificates remain valid for 5 years, as opposed to 2 years, there is a higher risk that someone could have a valid medical certificate for a significant period after developing a disqualifying medical condition. In order to reduce the risk created by extending the validity period of the

medical certificate, this rule requires FCPs and masters or mates who serve as pilot on vessels of 1,600 GRT or more to submit their annual physical examination results to the Coast Guard no later than 30 days after completion of the physical examination if any of the following circumstances occur: (1) the examining medical practitioner documents that the individual does not meet the physical ability requirements described in §10.304(c); (2) the examining medical practitioner documents that the individual has a condition that does not meet the general medical examination requirements described in §10.304(a), the vision requirements described in §10.305, or the hearing requirements described in §10.306; (3) the examining medical practitioner documents that the individual is not recommended for a medical certificate or needs further review by the Coast Guard; or (4) if the Coast Guard requests the results. If the Coast Guard requests the results, they should be submitted no later than 30 calendar days after the request.

We are requiring self-submission of medical examinations to the Coast Guard when the examined pilot does not meet the requirements for physical abilities, general medical examination, vision, or hearing, or is not recommended for a medical certificate, so that the Coast Guard can further review the results of the medical examination. As part of the review, the Coast Guard may request additional information in the interest of mariner safety and full performance of the pilot's duties.

Service on vessels may be arduous, and imposes unique physical and medical demands on pilots. The submission requirements support our statutory responsibility under 46 U.S.C. 7101 to ensure that pilots are physically and medically fit to pilot a vessel. The public safety risks associated with the medical and physical condition of pilots on vessels are important considerations for the safe operation of vessels and the safety and well-being of the crew. As stated in § 11.709(b), the pilot's annual physical examination will continue to be recorded on form CG-719K, which documents physical ability, medical conditions, and hearing and vision requirements. Form CG-719K also

documents whether a mariner is “not recommended,” which could prompt a submission under the requirements in § 11.709(b)(2)(i)-(iii). If a pilot or a master or mate serving as pilot on a vessel 1,600 GRT or more is “not recommended” on their Form CG-719K and fails to report their physical examination results as required under § 11.709(b), they may not serve as pilot on a vessel 1,600 GRT or more until they come into compliance and the Coast Guard makes a determination on whether they are fit to serve under the provisions in 46 CFR subchapter B. The annual physical examination documentation and scope are unchanged and remain the same under this rule.

Moreover, the Coast Guard can request the results of the physical examination as part of marine casualty investigations, where more frequent monitoring of a medical condition is specified in a waiver, and in other cases that prompt further review.

As stated in § 11.701(d), the Coast Guard only issues FCP endorsements for tonnages of 1,600 GRT or more. Therefore, all FCPs serving under the authority of their FCP endorsement will continue to be required to undergo the statutorily required annual physical examinations and will be subject to the submission requirements in § 11.709.

In § 11.709, we also move the text specifying that each annual physical examination must meet the requirements in 46 CFR, part 10, subpart C, and be recorded on form CG-719K, from existing paragraph (c) into paragraph (b). We move this requirement into paragraph (b) so that all information regarding annual physical examination requirements is in the same paragraph.

In conjunction with moving paragraph (c) into paragraph (b), this rule redesignates current § 11.709(d) as § 11.709(c), without change.

Finally, this rule adds a new paragraph 11.709(d) to clarify that masters or mates serving as pilot on vessels of 1,600 GRT or more under § 15.812 may not serve on these vessels if they do not meet the annual physical examination and submission requirements specified in § 11.709(b). New paragraph (d) does not change any of the current

requirements or consequences for masters or mates serving as pilot on vessels of 1,600 GRT or more, but reiterates the annual physical examination requirements for masters or mates serving as pilot already required in § 15.812. Masters or mates serving as pilot on vessels of 1,600 GRT or more who do not comply with the physical examination or reporting requirements in § 11.709(b) may still operate under the authority of their master or mate endorsement, but cannot pilot a vessel of 1,600 GRT or more until they come into compliance and the Coast Guard makes a determination on whether they are fit to serve under the provisions of 46 CFR 15.812 and 46 CFR subchapter B.

*C. 46 CFR 15.401: Employment and Service Restrictions within the Credential*

This rule also aligns the employment requirements in § 15.401 with the 5-year maximum period of validity of medical certificates for FCPs or masters or mates serving as pilot so that it reflects the change made in § 10.301(b). Section 15.401(c) states that a person may not employ or engage an individual in a position required to hold an MMC unless that individual maintains a current medical certificate. This section currently lists the maximum validity period of the medical certificate as 2 years for FCPs and masters or mates serving as a pilot. This rule amends this section to say that the maximum validity period of the medical certificate for FCPs and masters or mates serving as pilot is 5 years.

Additionally, throughout § 15.401, this rule removes obsolete terminology referring to licenses, certificates of registry, and Merchant Mariner's Documents (MMDs). The Coast Guard ceased issuing licenses, certificates of registry, and MMDs in 2009 when we transitioned to the streamlined MMC with the "Consolidation of Merchant Mariner Qualification Credentials" final rule (see 74 FR 11195, March 16, 2009). All credentialed mariners now hold an MMC.

We also revise § 15.401(c)(1) by removing the outdated grandfathering clause, "[a]fter January 1, 2017," because the referenced date has passed and the section is now



applicable to all medical certificates issued to individuals serving on vessels where the STCW Convention applies.

*D. 46 CFR 15.812, Table 1 to §15.812(e)(1): Masters or Mates Serving as Pilot on Vessels of 1,600 GRT or more*

This rule includes a correction to Table 1 to § 15.812(e)(1). Section 15.812(b)(2) contains the requirements for masters or mates to serve as pilot on vessels of not more than 1,600 GRT. There is no requirement in paragraph (b)(2) of this section for these masters and mates serving on vessels less than 1,600 GRT to undergo an annual physical examination. This is consistent with § 11.709(a), which stipulates that the annual physical examination requirement only applies to individuals who pilot a vessel of 1,600 GRT or more. However, in Table 1 to §15.812(e)(1), “Quick Reference Table for Federal Pilotage Requirements for U.S.-Inspected, Self-Propelled Vessels, Not Sailing on Register,” the requirement for a master or mate serving as pilot on vessels not more than 1,600 GRT to have an annual physical examination was added in error. This error was incorporated into the table with the implementation of the STCW final rule, which took effect on March 24, 2014. We are removing the erroneous annual physical examination requirement in Table 1, under the third column, “Non-designated areas of pilotage waters (between the 3-mile limit and start of traditional pilotage routes).” This correction aligns the table with the corresponding regulatory text in section § 15.812(b)(2), as well as the applicability of the annual physical examination requirements in §11.709(a). This correction does not change the requirements for these mariners, because the Coast Guard has not required masters or mates serving as a pilot on vessels of less than 1,600 GRT to complete an annual physical examination.

## **VI. Regulatory Analyses**

The Coast Guard received six comment submissions during the 60-day comment period that ended on October 26, 2021. We received no public comments on the estimated benefits and costs; therefore, the methodology employed in the regulatory

analyses in the NPRM remains unchanged.

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on these statutes or Executive orders.

*A. Regulatory Planning and Review*

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. A regulatory analysis follows.

**Summary of Affected Population, Costs Savings, and Benefits**

This rule extends the maximum validity period of merchant mariner medical certificates issued to FCPs and masters or mates serving as pilot from 2 years to 5 years. This rule reduces the frequency of medical certification application submissions to the Coast Guard. FCPs and masters and mates who serve as pilot on vessels of 1,600 GRT or more will be required to submit the results of their annual physical examinations to the Coast Guard between medical certificate applications if the mariner: (1) does not meet the physical ability requirements; (2) has a condition that does not meet the medical, vision, or hearing requirements; (3) is deemed “not recommended” by a medical practitioner for a medical certificate; or (4) is so requested by the Coast Guard.

**Table 1: Summary of the Affected Population, Cost Savings, and Benefits for this rule**

Category	Summary
Applicability	<p>Amend 46 CFR 10.301 and 15.401 to extend the maximum period of validity of merchant mariner medical certificates issued to FCPs, and masters or mates serving as pilot, from 2 years to 5 years.</p> <p>Amend 46 CFR 11.709 by modifying the medical certificate application submission requirement for FCPs, as well as masters and mates who serve as pilot on vessels of 1,600 GRT or more, from 2 years to 5 years.</p>
Affected Population	<p>There are currently 3,897 mariners who hold MMC endorsements as FCPs, as of June 1, 2020. This number does not include masters or mates who could serve as pilot.</p> <p>The affected population for this rule is 95 percent of that population, or 3,702 mariners (net affected population).</p>
Benefits	<p>Fewer medical certificate applications will reduce the National Maritime Center's (NMC's) workload and generate cost savings to the government and to mariners.</p> <p>There could be unquantified benefits for some pilots due to a decrease in the likelihood of a lapse in medical certification from less frequent medical certificate application submissions. A lapse in medical certification can have significant costs for individual pilots and for employers, because pilots may not work under the authority of their credential without a valid medical certificate.</p>
Cost savings (in \$2020, 7% discount rate)*	<p>Industry cost savings: \$20,908 annualized and \$146,847 over a 10-year period of analysis.</p> <p>Government cost savings: \$15,756 annualized and \$110,664 over a 10-year period of analysis.</p> <p>Total cost savings to industry and government: \$36,664 annualized and \$257,511 over a 10-year period of analysis.</p>

\*Totals may not sum due to rounding.

### *Affected Population*

The Merchant Mariner Licensing and Documentation database (MMLD) is used by the NMC to issue MMCs and maintain records of U.S. merchant mariners. Based on data obtained from the MMLD, we determined that a total of 3,897 mariners hold MMC endorsements as FCPs. This rule will not impact FCPs holding medical certificates issued with waivers requiring more frequent reporting of medical examination results to

the Coast Guard. Based on data from the MMLD, this group currently consists of 195 mariners, which is 5 percent of the total affected population of 3,897 mariners. We reduced the total population (3,897 mariners) by this number (195) to obtain a net affected population of 3,702 mariners who will be impacted by this rule.

Additionally, we determined that there are 89,713 mariners who hold an MMC endorsement as master or mate, without holding an FCP endorsement, who could serve as pilot. Because there is no requirement to report when a master or mate serves as pilot, we are unable to determine how many masters or mates are serving as pilot; therefore, we limited the affected population in this analysis to mariners holding FCP endorsements and medical certificates without time-limited medical waivers. Table 2 presents this population.

**Table 2: Summary of Population by Endorsement**

<b>Population</b>	<b>Number of Mariners</b>
Total number of mariners holding an MMC endorsement as FCP and holding a medical certificate with or without time-limited medical waivers (total potentially affected FCP population)	3,897
Those mariners holding an MMC endorsement as FCP and holding a medical certificate with time-limited medical waivers (unaffected FCP population due to waiver status resulting in no change in the period of validity of the medical certificate)	195
Those mariners holding an MMC endorsement as FCP and holding a medical certificate without time-limited medical waivers (affected FCP population due to change in the period of validity of the medical certificate)	3,702

#### *Costs and Cost Savings*

This final rule reduces the frequency of mariner medical certificate applications to the Coast Guard, resulting in a cost savings to both mariners and the government.

Industry cost savings are the costs avoided by reducing the frequency with which FCPs and masters or mates serving as pilot apply for a medical certificate. Consequently, fewer applications will reduce the NMC's workload, generating cost savings for the

government. The total 10-year discounted cost savings of this rule will be \$257,511, and the annualized total cost savings will be approximately \$36,664, both discounted at 7 percent. This includes the 10-year industry and government savings of \$146,847 and \$110,664 respectively, discounted at 7 percent.

#### *Turnover Rate*

We did not factor mariner turnover into this analysis. “Mariner turnover” means the number or percentage of mariners leaving employment within a certain period of time, combined with the number or percentage of mariners obtaining employment within the same period of time. There are two reasons for not factoring in mariner turnover. First, the MMC serves as a certificate of mariner identity, service, and qualification. In order to serve under the authority of an endorsement on an MMC, a mariner must be physically and medically qualified for that endorsement, as evidenced by holding a valid medical certificate. Medical certification is not an endorsement of qualification on an MMC, but, instead, is a separate document certifying medical and physical fitness to serve in the capacity of an endorsement listed on the MMC.

The second reason mariner turnover is not factored into this analysis is because the FCP endorsement represents a maritime qualification that can lead to permanent employment with a pilot association. This career path is highly competitive, due to the rigorous, time-consuming, and highly specialized training required. As presented in table 3, data from the MMLD indicates that the number of mariners holding an FCP endorsement has declined at an annual average rate of 0.48 percent in the last 11 years. We did not include mariner turnover because the Coast Guard believes it will have a negligible effect in assessing the costs or cost savings for this regulatory analysis. We did not receive any comments related to the impact of mariner turnover in response to the NPRM.

#### *Industry Cost Savings*

This final rule amends requirements so that the results of the annual physical examinations for pilots, and masters or mates serving as pilot, on vessels of 1,600 GRT or more will be submitted to the Coast Guard on form CG-719K every 5 years instead of every 2 years, unless one of the four conditions noted previously, and listed in § 11.709(b), is applicable.<sup>1</sup> Although mariners will still be required to complete an annual physical examination, the cost savings to industry will include the time savings of the affected population not having to submit an application for a merchant mariner medical certificate every 2 years, after the second year of the implementation of this rule.

Mariners may submit medical certificate applications either directly to the NMC via email or to a Regional Examination Center (REC) via email, fax, or mail. Additionally, applications may be submitted at a REC in person. Cost savings to industry will include the time saved by mariners by faxing, e-mailing, mailing, or delivering in-person the form CG-719K to the Coast Guard on a less frequent basis. According to data obtained from the MMLD, 95 percent of medical certificates issued to FCPs, or 3,702 ( $0.95 \times 3,897$ ), are renewed every 2 years. The remaining 5 percent are renewed annually, for those pilots with time-limited certificates due to medical waivers. Since the merchant mariner medical certificate for FCPs and masters or mates serving as pilot is only valid for 2 years under current regulations, half the total number of FCPs and masters or mates serving as pilot are currently applying for a new medical certificate each year.

Current data from the MMLD indicates that 195 mariners from the affected population will not benefit directly under this rule. This is the number of FCPs and masters or mates serving as pilot who have been issued medical certificates with a waiver, which require more frequent reporting of the results of their annual physical

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<sup>1</sup> Pilots must still undergo annual physical examinations. However, those pilots who are not required to submit the results to the Coast Guard during the 5 years will simply maintain personal copies.

examinations to the Coast Guard. These mariners will still be required to submit the form CG-719K to the Coast Guard on an annual basis.

### *Growth Rate of Affected Population*

We analyzed the number of endorsed FCPs who will experience a reduction in burden from only needing to submit their medical certificate applications once every 5 years, after the second year of the implementation of this rule, as opposed to once every 2 years under the regulations that existed prior to this final rule. We then analyzed the number of endorsed FCPs to estimate a population growth rate for mariners with MMCs who will become newly endorsed as FCPs. Using 11 years of data from the MMLD, from 2010 to 2020,<sup>2</sup> which is presented in table 3, we found that the number of endorsed FCPs is declining at an average rate of 0.48 percent per year. The highest number of endorsed FCPs was observed in 2017, while the lowest number of endorsed FCPs was observed in 2020.

We used this estimated annual average decline of 0.48 percent as a constant when forecasting the endorsed FCP population for the next 10 years. This constant rate represents the average decline experienced by FCPs throughout a 10-year period of analysis. We applied this 0.48 percent rate of decline to both the affected population in former regulations (the baseline) and the affected population in this final rule to determine the number of medical certificate application submissions in a given year. Table 3 presents the data from the MMLD used to determine the estimated annual rate of decline for the endorsed FCP population where  $t$  denotes the period of time, and  $t$  is discrete and positive.

**Table 3. Summary of Endorsed FCPs**

Year	Endorsed FCPs (a)	Growth Rate (b) <sub>t</sub> = [(a <sub>t</sub> - a <sub>t-1</sub> ) ÷ a <sub>t-1</sub> ] × 100
2010	4,259	

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<sup>2</sup> Data for each year are complete because the data are captured and recorded each July.

2011	4,292	0.77%
2012	4,262	-0.70%
2013	4,237	-0.59%
2014	4,200	-0.87%
2015	4,171	-0.69%
2016	4,219	1.15%
2017	4,297	1.85%
2018	4,263	-0.79%
2019	4,217	-1.08%
2020	4,055	-3.84%
<b>Avg.</b>	<b>4,225</b>	<b>-0.48%</b>
<b>Max.</b>	4,297	
<b>Min.</b>	4,055	

### *Baseline*

Table 4 illustrates the following discussion of our baseline analysis. In order to calculate the cost savings of this rule, and to determine our baseline industry costs, we first estimated the number of endorsed FCPs who will be applying for a merchant mariner medical certificate in any given year for the next 10 years, excluding those with medical waivers. To obtain this number, we took the total number of endorsed FCPs holding a medical certificate with or without time-limited medical waivers, 3,897, as shown in table 2. We then subtracted the number of endorsed FCPs who submit medical certificate applications on an annual basis due to time-limited restrictions, 195. We obtained a population of 3,702 endorsed FCPs who will submit their medical certificate applications every 5 years under the rule. We then divided this number (3,702) by 2, which is the application rate of FCPs who are currently issued medical certificates (1 application every 2 years) to obtain an annual estimate of 1,851 medical certificates issued ( $3,702 \div 2$ ). However, the number of endorsed FCPs has decreased over time, at an average annual rate of 0.48 percent from 2011–2020. We incorporated this average annual rate of decline in order to obtain the expected number of endorsed FCPs in a 10-year period of analysis. Column (d) in table 4, “Pre-NPRM Regulation Medical Certificate Applications With Decline,” captures the affected population after applying the annual



average rate of decline in column (b) and the application rate in column (c). The equation for column (d) is represented as  $(d)_t = (c)_t + ([1 + (b)]^t)$  for all  $t$ . Table 4 presents the number of medical certificate applications under the baseline analysis.

**Table 4. Baseline Analysis of FCPs Mariner Medical Certificate Applications**

<b>Year</b>	<b>Population (a)</b>	<b>Growth (b)</b>	<b>Pre NPRM Regulation Medical Certificate Applications Not Incorporating Growth  <math>(c)_t = (a) \div 2</math></b>	<b>Pre-NPRM Regulation Medical Certificate Applications With Decline  <math>(d)_t = (c)_t \times ([1 + (b)]^t)</math> for all <math>t</math></b>
1	3,702	-0.48%	1,851	1,842
2			1,851	1,833
3			1,851	1,825
4			1,851	1,816
5			1,851	1,807
6			1,851	1,799
7			1,851	1,790
8			1,851	1,781
9			1,851	1,773
10			1,851	1,764
<b>Total</b>			18,511	18,030
<b>Average</b>			1,851	1,803

#### *Revised Regulation*

Table 5 illustrates the following discussion of our methodology for estimating the number of medical certificate applications for the affected population under this rule. This is similar to the previously discussed “Baseline” section. The population and the estimated rate of decline are assumed to be identical under both the baseline scenario and the final rule. The difference in the methodology for the final rule is reflected in the application frequency for FCPs. We calculated this by taking the number of FCPs expected to submit a medical certificate application in a given year, incorporating the rate of decline, and assuming that each eligible remaining FCP will only submit a medical certificate application at intervals of 5 years, starting in year 1. Column (e) reflects this

periodicity; FCPs who submit a medical certificate application in year 1 will not have to submit a new medical certificate application until year 6. FCPs who submit their medical certificate application in year 2 will not have to submit their medical certificate application until year 7. After accounting for the yearly attrition projected for this analysis, values for column (e) will be equivalent to values of column (d)  $_t$  for  $t = 1, 2, 6, 7$ , and 0 for any other period. This periodicity holds true for any given 10-year interval into the future.

In contrast, column (f) reflects the reduction in medical certificate applications under this rule. For any given period  $t$ , the reduction in medical certificate applications is calculated as the difference between FCPs who otherwise submit a medical certificate application every other year under the regulations that existed prior to this final rule, column (d), and the number of FCPs who no longer have to submit a medical certificate application during years 3, 4, 5, 8, 9, 10. Hence, column (f)  $_t = 0$  for  $t = 1, 2, 6, 7$ , and column (f)  $_t = (d)_t - (e)_t$  for any other year. Finally, column (g) reflects the number of FCPs lost to the industry on a given year due to the projected attrition.

*Reduction in Merchant Mariner Medical Certificate Applications from Baseline to Final Rule*

As reflected in sum of column (f) of table 5, we project an aggregate reduction in medical certificate applications of 10,766 over a 10-year period following the implementation of this rule. Under this final rule, on average, FCPs will not have to submit 1,794 medical certificate applications in 3 years out of a given 5-year period horizon.

**Table 5: Rule Analysis of FCPs Medical Certificate Applications**

Year	Population (a)	Growth (b)	Prior Regulation Medical Certificate Applications Without Growth (c) $_t = (a) \div 2$	Prior Rule Medical Certificate Applications With Growth (d) $_t = (c)_t \times$ ( [1 + (b)] $^t$ ) for all $t$	Final Rule Regulation Medical Certificate Applications With Growth (e) $_t = (d)_t$ for $t=1,2,6,7$ , and (e) $_t = 0$ otherwise	Difference in Medical Certificate Applications (f) $_t = 0$ for $t=1,2,6,7$ , otherwise (f) $_t = (d)_t - (e)_t$	Population Change on a given year (g) $_t = d_t - d_{t-1}$
1	3,702	-0.48%	1,851	1,842	1,842	-	-
2			1,851	1,833	1,833	-	-9
3			1,851	1,825	-	1,825	-9
4			1,851	1,816	-	1,816	-9
5			1,851	1,807	-	1,807	-9
6			1,851	1,799	1,799	-	-9
7			1,851	1,790	1,790	-	-9
8			1,851	1,781	-	1,781	-9
9			1,851	1,773	-	1,773	-9
10			1,851	1,764	-	1,764	-8
Total			18,511	18,030	7,264	10,766	-78
Average			1,851	1,803	1,816	1,794	-9

*Medical Certificate Applications Submitted by Mail - Opportunity Cost of Time*

Table 6 illustrates the analysis of cost savings to industry as discussed in the following paragraphs. We first determine the number of FCPs who will submit a medical certificate application via mail, previously estimated by the NMC at 15 percent of the affected population. The number of FCPs who no longer have to submit a medical application on a given year is reflected on column (f) of table 5. Therefore, column (a) of table 6 is the product of reduced FCPs  $\times$  15%. We then estimate the reduction in hours under the final rule.

We calculate the reduction in time burden in a given year from FCPs who no longer have to submit a medical certificate application. The reduction in time burden is calculated as the product of the average time per medical certificate application submitted by mail for evaluation, and the number of FCPs who no longer have to submit a medical certificate application in a given year. The current collection of information approval for MMC application forms estimates the total time required to fill out and submit the medical certificate application by mail to be 18 minutes. Subject matter experts holding MMCs, with experience submitting a medical certificate application, estimate that, on average, 13 minutes are required to fill out the application and the remaining 5 minutes, or 0.083 hours ( $5 \div 60$ ), are required to mail the application. Column (f) in table 6 is the product of (a) and (b). In order to calculate the government cost savings from time saved by NMC employees having fewer medical certificate applications to evaluate, we use an estimated loaded hourly wage rate of \$94.03.<sup>3</sup> We derive the estimated wage by using the Office of Personnel Management's 2020 Salary Table for the locality adjusted general service (GS) pay scale for the Washington, D.C. metropolitan area.

We estimate that the average hourly wage rate for a GS-13 medical evaluator at

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<sup>3</sup> A loaded hourly wage rate is what a company pays per hour to employ a person, not the hourly wage an employee receives. The loaded hourly wage rate includes the cost of non-wage benefits (health insurance, vacation, etc.).

the NMC is \$56.57.<sup>4</sup> To account for employee benefits, we use a load factor of 1.66, which we calculate from the Congressional Budget Office report, “Comparing the Compensation of Federal and Private-Sector Employees, 2011 to 2015.”<sup>5</sup> We obtain this figure (the loaded factor) by dividing the total hourly compensation of a typical GS-13 employee, \$74.80<sup>6</sup>, by the hourly wage of a typical GS-13 employee, \$45.00<sup>7</sup>; hence,  $\$74.80 \div \$45.00 = 1.66^8$ . Therefore, we estimate the loaded wage rate of a typical GS-13 employee as the product of the wage rate and the load factor, or  $\$56.57 \times 1.66 = \$94.03$ .

We recognize that many mariners holding FCP endorsements are compensated at higher wage rates than what is published by the Bureau of Labor Statistics (BLS); however, we used the BLS Occupational Series due to the lack of official records for FCP wages and salaries.

In order to calculate the cost of time saved by FCPs submitting fewer applications under this rule, we use the loaded hourly wage rate per FCP, estimated at \$64.90. We obtain an estimated hourly wage rate for a mariner of \$43.14, using BLS’ Occupational Series 53-5021, Captains, Mates, and Pilots of Water Vessels (May 2020).<sup>9</sup> To determine the load factor per FCP, we divide the BLS total compensation for the transportation and material moving series,<sup>10</sup> \$32.27, by the wages and salaries for the same series, which is \$21.45. We estimate the load factor as 1.50, as  $\$32.27 \div \$21.45 = 1.50$ . Therefore, we calculate the loaded hourly wage rate by multiplying the hourly wage rate by the loaded factor, or  $\$43.14 \times 1.50 = \$64.90$ .<sup>11</sup>

After determining the total reduction in time for FCPs not submitting medical

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<sup>4</sup> [https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB\\_h.pdf](https://www.opm.gov/policy-data-oversight/pay-leave/salaries-wages/salary-tables/pdf/2020/DCB_h.pdf).

<sup>5</sup> <https://www.cbo.gov/system/files/115th-congress-2017-2018/reports/52637-federalprivatepay.pdf>.

<sup>6</sup> Id, table 4. For this analysis we assumed a GS-13 was a federal employee with a Master’s degree, as specified in table 2 and table 4 of the report.

<sup>7</sup> Id, table 2.

<sup>8</sup> Totals may not add due to rounding.

<sup>9</sup> <https://www.bls.gov/oes/2020/may/oes535021.htm> (see Mean Hourly Wage value, National estimates for this occupation box).

<sup>10</sup> [https://www.bls.gov/news.release/archives/ecec\\_03192020.pdf](https://www.bls.gov/news.release/archives/ecec_03192020.pdf), found in table 2.

<sup>11</sup> Total may not add due to rounding.

certificates in a given year, we estimate the aggregate cost of the time for all FCPs to submit their medical certificates applications to the Coast Guard by multiplying the loaded hourly wage-rate per each endorsed FCP, \$64.90, by the total annual reduction in time burden. Therefore, the cost-time burden, column (g) of table 6, is the product of column (d) and column (f).

#### *Submission Costs*

Mariners may submit medical certificate applications either directly to the NMC or to a REC. Whether submitting to the NMC or a REC, applications can be submitted by email, fax, or mail. An application may also be submitted to a REC in person.

Using data from the NMC on the submission of medical certificate applications, we estimate that approximately 39 percent of medical certificate applications are submitted directly to the NMC. Of these applications, 89 percent are submitted by email, 6 percent are submitted by fax, and 5 percent are submitted by mail. The remaining 61 percent of medical certificate applications are submitted to RECs, where 52 percent of the applications are submitted by email, 1 percent are submitted by fax, 22 percent are submitted by mail, and 25 percent are submitted in person.<sup>12</sup> Therefore, of the total medical certificate applications submitted to the Coast Guard (to both the NMC and RECs), approximately 66 percent are submitted via email, 3 percent are submitted via fax, 15 percent are submitted via mail, and 15 percent are submitted in person.<sup>13</sup>

We estimate the expected cost of mailing applications through the U.S. Postal Service (USPS) in any given year as the product of the total number of medical certificate applications that will be submitted under this rule, the 55-cent cost of mailing an application to the Coast Guard through the USPS using a first-class letter postage stamp, and the percentage of endorsed FCPs expected to submit their medical certificate

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<sup>12</sup> Total may not add to 100 percent due to rounding.

<sup>13</sup> Total may not add to 100 percent due to rounding.

applications through the mail, approximately 15.4 percent. Thus, column (h) of table 6 =  $(a) \times (c)$ . Finally, the undiscounted industry cost savings, column (i), is the sum of the cost-time burden, column (g), and the USPS cost, column (h).

**Table 6. Medical Applications Mailing Costs Estimates over a 10-year period of analysis in \$2020 dollars using 7- and 3-percent discount rates**

Year	Mailed Submission (a) <sub>t</sub> = Reduced FCPs × 15%	Avg. Time per Form Submission (hrs.) (b)	Cost per Letter Mailed (1 oz.) (c)	FCP Hourly Wage (d)	Total Apps Received (%) (e)	Reduction in Time Burden (hrs.) (f) <sub>t</sub> = (a) <sub>t</sub> × (b)	Cost-Time Burden (g) <sub>t</sub> = (d) × (f) <sub>t</sub>	Mail Costs (USPS) (h) <sub>t</sub> = (a) <sub>t</sub> × (c)	Undiscounted Industry Cost Savings (i) <sub>t</sub> = (g) <sub>t</sub> + (h) <sub>t</sub>	Discounted 7%	Discounted 3%
1	-	0.083	\$0.55	\$ 64.90	15%	-	-	-	-	-	-
2	-					-	-	-	-	-	-
3	280					23	\$1,517	\$154	\$1,671	\$1,364	\$1,529
4	279					23	\$1,509	\$154	\$1,663	\$1,269	\$1,478
5	278					23	\$1,502	\$153	\$1,655	\$1,180	\$1,428
6	-					-	-	-	-	-	-
7	-					-	-	-	-	-	-
8	274					23	\$1,481	\$151	\$1,631	\$949	\$1,288
9	272					23	\$1,474	\$150	\$1,624	\$883	\$1,244
10	271					23	\$1,467	\$149	\$1,616	\$821	\$1,202
Total						138	\$8,950	\$910	\$9,860	\$6,467	\$8,169
Average						23	\$1,492	\$152	\$1,643	\$1,078	\$1,361
Annualization										\$921	\$958

\* Totals may not add due to rounding.



*Medical Certificates Applications Submitted in Person- Opportunity Cost of Time*

Table 7 illustrates the analysis of cost savings to industry, as discussed in the following sections. We first determine the number of FCPs who will submit a medical certificate application in person, previously estimated by the NMC at 15 percent of the affected population. Therefore, column (a), the expected number of medical certificate applications submitted in person in a given year = reduced FCPs  $\times$  15%. We assume that each eligible FCP will commute an average of 27.6 minutes in each direction<sup>14</sup> to submit their medical certificate application to a REC, for an average total commuting time of 55.2 minutes, shown in column (c). We assume that FCPs who have a longer commute to the REC will submit the applications by mail or email. We also assume that FCPs will drive at an average speed of approximately 57 miles per hour (MPH) based on calculations from data in the Department of Transportation's National Traffic Speeds Survey II, Overall Speed Estimates (in MPH) by Road Class (Free-Flow) by Year. That survey provided mean speed figures for three road classes: limited access (70.5 MPH), major arterial (53.28 MPH), and minor arterial (47.01 MPH). We took the mean of those values to obtain an average speed of 56.93 MPH  $[(70.5 + 53.28 + 47.01) \div 3]$ .<sup>15</sup> Considering the estimated average speed, we assume that 55.2 minutes of commuting time will be traveled in approximately 1 hour (55.2 minutes  $\div$  57 miles per hour  $\approx$  0.97 hrs.), reflected in column (b).

In order to calculate the opportunity cost of having to commute to submit a medical certificate application to a REC on a less frequent basis, we use the General Services Administration's (GSA's) "Privately Owned Vehicle (POV) Mileage Reimbursement Rates,"<sup>16</sup> which is used as a proxy for the wear and tear incurred while

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<sup>14</sup> <https://www.census.gov/newsroom/press-releases/2021/one-way-travel-time-to-work-rises.html>.

<sup>15</sup> Table 1. Overall Speed Estimates (in MPH) by Road Class (Free-Flow) by Year, Fact Sheet, Publication No. DOT HS 811 647, August 2012, [https://safety.fhwa.dot.gov/speedmgt/data\\_facts/](https://safety.fhwa.dot.gov/speedmgt/data_facts/).

<sup>16</sup> <https://www.gsa.gov/travel/plan-book/transportation-airfare-pov-etc/privately-owned-vehicle-pov-mileage-reimbursement-rates>.

commuting to a REC. As of January 2021, the reimbursement rate is \$0.56 per mile, column (d). We then estimate the net reduction in time burden hours in column (e).

The net reduction in time burden is calculated as the product of the average time it will take FCPs to commute to and from a REC, column (b), and the number of FCPs who no longer have to submit a medical certificate on a given year, column (a). Hence, column (e) = (a)  $\times$  (b). Next we estimate the net reduction in distance (miles avoided) by FCPs who no longer have to drive to submit a medical certificate application in a given year. The net reduction in distance (miles), column (f), is the product of the average miles avoided by FCPs who would otherwise commute to and from a REC, column (c), and the aggregate time of commuting avoided by FCPs in hours. Finally, we estimate the undiscounted cost savings of FCPs who no longer have to submit a medical certificate application in person, column (g). This column is calculated as the product of GSA's reimbursement rate, column (d), and the aggregate distance (miles) avoided by FCPs on a given year, column (e). Hence, column (g) = (d)  $\times$  (f).

**Table 7. Opportunity Cost of Commute Avoided in Terms of Time and Reimbursement Impact**

Year	In Person Submission (a) <sub>t</sub> = Reduced FCPs × 15%	Total Time Allotted for Driving to/from USCG Facilities (hrs.) (b)	Average Time Commuted per FCP (c)	Reimbursement Rate per Mile Driven (d)	Net Reduction in Time Burden (hrs.) (e) <sub>t</sub> = (a) <sub>t</sub> × (b)	Net Reduction in Time (minutes) (f) <sub>t</sub> = (c) × (e) <sub>t</sub>	Undiscounted Industry Cost Savings (g) <sub>t</sub> = (d) × (f) <sub>t</sub>	Discounted 7%	Discounted 3%
1	-	1.000	55.2	\$0.56	-	-	-	-	-
2	-				-	-	-	-	-
3	280				280.44	15,481	\$8,669	\$7,077	\$7,933
4	279				279.10	15,406	\$8,628	\$6,582	\$7,666
5	278				277.77	15,333	\$8,586	\$6,122	\$7,407
6	-				-	-	-	-	-
7	-				-	-	-	-	-
8	274				273.80	15,114	\$8,464	\$4,926	\$6,681
9	272				272.49	15,041	\$8,423	\$4,582	\$6,456
10	271				271.18	14,969	\$8,383	\$4,261	\$6,238
Total	1,655				1,654.77	91,344	\$51,152	\$33,549	\$42,380
Average	276				275.80	15,224	\$8,525	\$5,592	\$7,063
Annualization								\$4,777	\$4,968

\*Totals may not add due to rounding.

*Medical Certificate Applications Submitted in Person - Opportunity Cost of Time (compensation)*

Table 8 illustrates an analysis similar to table 7, but in terms of the compensation that FCPs will otherwise forgo in order to commute to a REC to submit a medical certificate application. Based on data provided from each REC, we determined that, considering security protocols, a mariner requires an average of 25 minutes to arrive at, enter, and then exit a REC, column (c). It requires, on average, an additional 5 minutes of wait time to be seen by the legal instruments examiner at the customer service counter, column (d), and an additional 1 minute for the examiner to verify that the medical certificate application is complete and filled out properly, column (e). The time burden for FCPs is no different than for any other mariner.

To quantify the savings associated to mariners not using a full hour of their time to commute to a REC, column (b), we use the FCP's loaded hourly wage rate, estimated at \$64.90, column (f). The undiscounted cost savings associated to FCPs who no longer have to commute to submit a medical certificate application, column (g), is calculated as the product of the number of reduced FCPs, column (a), the average commuting time to and from a REC, column (b), the average time to it takes an FCP to enter and exit a REC, column (c), the average time to it takes for an FCP to be seen by a legal instruments examiner at the customer service counter, column (d), and the average time it takes for the examiner to verify that the medical certificate application is complete and filled out properly, column (e). Hence,  $(g)_t = (a)_t \times [(b) + (c) + (d) + (e)] \times (f)$ .

**Table 8. Opportunity Cost of Commute Avoided in Terms of Hourly Wage Compensation**

Year	In Person Submission (a) <sub>t</sub> = Reduced FCPs × 15%	Avg. Commuting Time to/from RECs (hrs.) (b)	Avg. Time to Enter and Exit RECs (hrs.) (c)	Avg. Time to be Seen by Legal Instruments Examiner (hrs.) (d)	Avg. Time per Form Submission (hrs.) (e)	FCP Hourly Wage (f)	Undiscounted Industry Cost Savings (g) <sub>t</sub> = (a) <sub>t</sub> × [(b) + (c) + (d) + (e)] × (f)	Discounted 7%	Discounted 3%
1	-	1.000	0.417	0.083	0.017	\$64.90	-	-	-
2	-						-	-	-
3	280						\$27,605	\$22,534	\$25,263
4	279						\$27,473	\$20,959	\$24,409
5	278						\$27,341	\$19,494	\$23,585
6	-						-	-	-
7	-						-	-	-
8	274						\$26,951	\$15,686	\$21,275
9	272						\$26,822	\$14,589	\$20,557
10	271						\$26,693	\$13,569	\$19,862
Total	1,655						\$162,885	\$106,831	\$134,951
Average	276						\$27,147	\$17,805	\$22,492
Annualization								\$15,210	\$15,820

\*Totals may not add due to rounding.

### *Total Cost Savings to Industry*

Using a 7-percent discount rate, we estimate the annualized cost savings for this rule at \$20,908 and the 10-year total at \$146,847. We obtain this value by adding the yearly cost savings associated with the number of medical certificate applications not submitted in a given period, which is column (i) of table 6, and the number of medical certificate applications not delivered to the Coast Guard in a given period, which is the sum of column (g) of table 7 and column (g) of table 8. We present these industry cost-savings amounts, discounted at 7 percent and 3 percent, in table 9.

**Table 9. Total Industry Cost Savings Over a 10-year period of analysis in \$2020 dollars using 7- and 3-percent discount rates**

<b>Year</b>	<b>Undiscounted Mail Submission (a) <sub>t</sub></b>	<b>Undiscounted In Person Submission (b) <sub>t</sub></b>	<b>Undiscounted Industry Savings (c) <sub>t</sub></b>	<b>Discounted 7%</b>	<b>Discounted 3%</b>
1	-	-	-	-	-
2	-	-	-	-	-
3	\$1,671	\$36,274	\$37,945	\$30,975	\$34,725
4	\$1,663	\$36,100	\$37,763	\$28,810	\$33,552
5	\$1,655	\$35,928	\$37,583	\$26,796	\$32,419
6	-	-	-	-	-
7	-	-	-	-	-
8	\$1,631	\$35,414	\$37,046	\$21,561	\$29,244
9	\$1,624	\$35,245	\$36,868	\$20,054	\$28,256
10	\$1,616	\$35,076	\$36,692	\$18,652	\$27,302
<b>Total</b>	\$9,860	\$214,037	\$223,897	\$146,847	\$185,499
<b>Average</b>	\$1,643	\$35,673	\$37,316	\$24,475	\$30,917
<b>Annualization</b>				<b>\$20,908</b>	<b>\$21,746</b>

### *Government Cost Savings*

Table 10 illustrates the following methodology to calculate the cost savings to the government. We first estimate the reduction in hours associated with the reduction in medical certificate application submissions previously discussed as the product of the reduction in medical certificate applications and the estimated time it will take a GS-13

employee at the NMC to process an application for a

\*Totals may not add due to rounding

medical certificate. Using medical certificate application information records obtained from NMC medical evaluation staff, we estimate that the time needed to evaluate a medical certificate application is approximately 10 minutes, or 0.166 hours ( $10 \div 60 = 0.166$  hours).

Using the loaded hourly wage rate of \$94.03 for a GS-13 employee, we estimate that the government will save \$15.67 ( $\$94.03 \times 0.17$  hour) on each application it no longer has to evaluate. The annual reduction in the number of medical certificate applications for the rule is the product of the number of applications the government will no longer have to review and the hours saved by not having to review an additional medical application. Therefore,  $(d) = (a) \times 0.166$  hrs. On average, the government will save 299 hours annually under this final rule.

Next, we estimate the total undiscounted government cost savings in a given year. We calculated this by multiplying the estimated loaded hourly wage rate for a GS-13 employee, \$94.03, by the yearly reduction in hours. This captures the difference in the medical certificate applications under the former regulations and the final rule. On average, the government will save \$18,444 annually under this rule, discounted at 7 percent, as presented in table 10.

**Table 10. Government cost savings over a 10-year period of analysis in \$2020 dollars using 7- and 3-percent discount rates**

Year	Reduction in Medical Certificate Applications (a) <sub>t</sub>	GS-13 Wage Rate (b)	Time per Evaluation (hrs.) (c)	Reduction in Time Burden (hrs.) (d) <sub>t</sub> = (a) × (c)	Undiscounted Government Cost Savings (e) <sub>t</sub> = (b) × (d) <sub>t</sub>	Discounted 7%	Discounted 3%	
1	-	\$94.03	0.17	-	-	-	-	
2	-			-	-	-	-	
3	1,825			304.10	\$28,595	\$23,342	\$26,169	
4	1,816			302.65	\$28,459	\$21,711	\$25,285	
5	1,807			301.20	\$28,322	\$20,193	\$24,431	
6	-			-	-	-	-	
7	-			-	-	-	-	
8	1,781			296.89	\$27,918	\$16,248	\$22,038	
9	1,773			295.47	\$27,784	\$15,113	\$21,294	
10	1,764			294.06	\$27,651	\$14,056	\$20,575	
Total		10,766				\$168,729	\$110,664	\$139,792
Average		1,794				\$28,121	\$18,444	\$23,299
Annualization							\$15,756	\$16,388

\*Totals may not add due to rounding



### *Total Estimated Cost Savings of this Rule Over a 10-year Period of Analysis*

Over a 10-year period of analysis, the total estimated cost savings of this rule to mariners and the government is \$257,511, discounted at 7 percent. The annualized cost savings are \$36,664, also discounted at 7 percent. Table 11 presents the total cost savings of this rule, which is the sum of the undiscounted industry savings, column (c) of table 9, and the undiscounted government savings, which is column (e) of table 10. Therefore, the undiscounted total cost savings is the sum of the undiscounted industry savings and the undiscounted government savings.

**Table 11. Total Estimated Costs Savings of Rule over a 10-year Period of Analysis in \$2020 Using 7- Percent and 3-Percent Discount Rates**

<b>Year</b>	<b>Undiscounted Industry Cost Savings (a) <sub>t</sub></b>	<b>Undiscounted Government Cost Savings (b) <sub>t</sub></b>	<b>Undiscounted Total Cost Savings (c) <sub>t</sub> = (a) <sub>t</sub> + (b) <sub>t</sub></b>	<b>Discounted 7%</b>	<b>Discounted 3%</b>
1	-	-	-	-	-
2	-	-	-	-	-
3	\$37,945	\$28,595	\$66,541	\$54,317	\$60,894
4	\$37,763	\$28,459	\$66,222	\$50,520	\$58,837
5	\$37,583	\$28,322	\$65,905	\$46,989	\$56,850
6	-	-	-	-	-
7	-	-	-	-	-
8	\$37,046	\$27,918	\$64,963	\$37,809	\$51,283
9	\$36,868	\$27,784	\$64,652	\$35,167	\$49,551
10	\$36,692	\$27,651	\$64,343	\$32,709	\$47,877
<b>Total</b>	\$223,897	\$168,729	\$392,626	\$257,511	\$325,292
<b>Average</b>	\$37,316	\$28,121	\$65,438	\$42,918	\$54,215
<b>Annualization</b>				<b>\$36,664</b>	<b>\$38,134</b>

\*Totals may not add due to rounding

### *Benefits*

The cost savings accounted for above, including savings to mariners from less frequent submissions of medical certificate applications, are quantifiable benefits from this rule. This rule will reduce the NMC's workload and generate government cost savings.

### **Alternatives**

When analyzing alternatives, we considered two factors: the period of validity of the medical certificate for FCPs; and the requirement to submit physical examination results to the Coast Guard. Prior to this final rule, the period of validity of the medical certificate was 2 years for FCPs, and the submission of physical examination results was correspondingly every other year, unless the medical certificate contained a waiver requiring more frequent submission of the physical examination results.

*Alternative 1.* The first alternative we considered in this analysis was no change, where FCPs would continue to apply for their medical certificates every other year. This alternative would also continue to require FCPs to report their physical examination results every other year, unless their medical certificate contains a waiver requiring more frequent submission. As shown in table 11, we estimate the opportunity cost of maintaining a 2-year pilot medical certificate validity period at \$36,664, annualized at 7 percent; or a total of \$257,511 over a 10-year period of analysis, also discounted at 7 percent. We rejected this alternative. Although there would be no additional costs to mariners or the government, there would also be no cost savings, and this alternative would not lead to an increase in safety in the maritime industry.

*Alternative 2.* The second alternative we considered was extending the maximum period of validity of medical certifications to 5 years without interim self-reporting requirements, which require mariners to submit the results of their medical examination to the Coast Guard if they no longer meet the medical standards. FCPs would only submit the results of the physical examination every 5 years with a medical certificate application, unless their medical certificate contains a waiver and requires more frequent submission. We rejected this alternative. The Coast Guard finds the potential for increased risk from mariners with underlying health issues operating as FCPs, and not self-reporting medical or health conditions that may impact their piloting performance and maritime safety, unacceptable. We made this determination after considering the

unique physical and cognitive demands placed on pilots in performing their duties, and maritime casualties that were directly related to a FCP's physical ability to perform their duties. We considered casualties such as the 2003 Staten Island Ferry allision, which resulted in more than \$8 million in damages and losses, and the 2007 Cosco Busan incident, which resulted in more than \$70 million in environmental damages and other losses. Both casualties were directly attributed to the pilot's inability to properly manage the vessel due to underlying medical conditions that were not reported to the Coast Guard within the 5-year medical certificate validity period. The risk that mariners can develop new medical conditions within the 5-year medical certificate validity period is mitigated by the self-reporting requirements. Taking into account these maritime casualties, and the potential for extraordinary damages to the public, the environment, and the maritime industry, the Coast Guard does not deem any potential benefit derived from excluding the interim self-reporting requirement on behalf of FCPs to be worth the risk involved.

*Alternative 3.* The third alternative we considered was extending the maximum period of validity of the medical certificate to 5 years, and requiring FCPs to submit the results of their annual physical examinations to the Coast Guard between medical certificate applications if the mariner: (1) does not meet the physical ability requirements; (2) has a condition that does not meet the medical, vision, or hearing requirements; (3) is deemed "not recommended" by a medical practitioner for a medical certificate; or (4) is so requested by the Coast Guard. With this third alternative, FCPs would apply for the medical certificates every 5 years and would have to report the results of their medical examination between applications only if any of the four conditions apply. This alternative mitigates the potential for increased safety risks identified under the second alternative, resulting from having mariners with underlying medical issues operating as FCPs. The potential for risk is increased when the Coast Guard does not have the opportunity to review the physical examinations of mariners whose medical practitioners

have diagnosed them with medical conditions that may impact their piloting performance. Therefore, the third alternative was chosen in this rule.

*B. Small Entities*

Under the Regulatory Flexibility Act, 5 U.S.C. 601–612, we have considered whether this rule will have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

This rule will reduce the burden on industry by extending the maximum period of validity of merchant mariner medical certificates for FCPs and masters and mates serving as pilot from 2 years to 5 years. Because the medical certificate application is submitted by the mariner and not an employer, the affected mariners will receive the cost savings from this rule. Hence, the changes in this rule will affect individuals, not businesses or other small entities as defined by the Small Business Administration in 13 CFR 121.201.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

*C. Assistance for Small Entities*

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996, Public Law 104-121, we offer to assist small entities in understanding this rule so that they can better evaluate its effects on them and participate in the rulemaking. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually

and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247).

*D. Collection of Information*

This rule calls for a change to an existing collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 3520. As defined in 5 CFR 1320.3(c), "collection of information" comprises reporting, recordkeeping, monitoring, posting, labeling, and other similar actions. The title and description of the information collection, a description of those who must collect the information, and an estimate of the total annual burden follow. The estimate covers the time for reviewing instructions, searching existing sources of data, gathering and maintaining the data needed, and completing and reviewing the collection.

The information collection associated with this rule is the currently approved collection, OMB Control No. 1625-0040, Application for Merchant Mariner Credentials and Medical Certificates, which covers all information collected for merchant mariner credentialing. The revisions to 46 CFR 10.301 and 15.401 will extend the maximum validity period of the mariner medical certificate for FCPs and masters or mates serving as pilot from 2 years to 5 years. The change to the maximum validity period of the medical certificate for pilots will reduce the frequency and burden of response estimates of the current information collection request.

*Title:* Application for Merchant Mariner Credentials and Medical Certificates.

*OMB Control Number:* 1625-0040.

*Summary of the Collection of Information:* The Coast Guard currently collects information from merchant mariners with their applications for MMCs and merchant mariner medical certificates. This collection includes the following information requests: signature of the applicant and supplementary material required to show that the mariner meets the mandatory requirements for the credential or medical certificate sought; proof

of the applicant passing all applicable vision, hearing, medical, and physical examinations; negative chemical test for dangerous drugs; discharges or other documentary evidence of sea service indicating the name, tonnage, propulsion mode and power of the vessels, dates of service, capacity in which the applicant served, and on what waters; and disclosure documentation for narcotics, driving while intoxicated or under the influence, or other convictions.

*Need for Information:* Title 46 U.S.C. Subtitle II, Part E, 46 CFR part 10 subpart B, the STCW Convention and STCW Code, including the STCW final rule (78 FR 77796), require MMC and medical certificate applicants to apply at one of the Coast Guard's 17 RECs located nationwide, or any other location designated by the Coast Guard. MMCs are established for individuals who are required to hold a credential under Subtitle II. The Coast Guard has the responsibility of issuing MMCs and medical certificates to applicants found qualified as to age, character, and habits of life, experience, professional qualifications, and physical fitness. The instruments contained within OMB Control No. 1625-0040 serve as a means for the applicant to apply for an MMC and a medical certificate.

*Proposed Use of Information:* The Coast Guard conducts this collection of information solely for the purpose of determining eligibility for the issuance of an MMC or medical certificate, in accordance with applicable statutes and regulations. This evaluation is performed on occasion, meaning as submitted by the respondent when they apply for an MMC or medical certificate. In general, applicants for an MMC must submit the "Application for Merchant Mariner Credential," form CG-719B, every 5 years for renewal, or when seeking a new endorsement or raise of grade, and applicants for a medical certificate must submit the form CG-719K every 2 years or every 5 years, depending upon the type of credential endorsements held and the applicant's medical status. The Coast Guard evaluates the collected information to determine whether

applicants are qualified to serve under the authority of the requested credential with respect to their medical fitness, their professional qualifications, and their safety and suitability.

*Description of the Respondents:* All applicants for an MMC, whether original, renewal, duplicate, raise of grade, or a new endorsement on a previously issued MMC, are included in this collection. Medical certificates are issued with three expiration dates based on the endorsement type. The effective expiration date depends upon the authority upon which the mariner is currently sailing, which may be on a National MMC endorsement, an international STCW endorsement, or a pilot endorsement. This rule only changes the maximum validity period of the pilot endorsement merchant mariner medical certificate from 2 years to 5 years, which applies only to FCPs and masters or mates serving as pilot.

*Number of Respondents:* This rule will reduce the annual number of respondents by 7,324 over a 10-year period of analysis. As a result, the total annual respondents for this collection will change from 18,316 to 10,992.

*Frequency of Response:* For FCP endorsements, the annual average reduction will be 1,794. The responses are annual and will result in a reduction in the number of medical certificate submissions of the form CG-719K from 54,800 to 44,034 ( $54,800 - 10,766 = 44,034$ ).

*Burden of Response:* The total hourly burden per response is estimated at 18 minutes, or 0.30 hours. This rule will reduce the aggregate burden of hours associated with the submission of the medical certification applications by extending the validity period from every 2 years to every 5 years. Therefore, the total annual response time for submitting a new medical certificate will decrease by approximately 3,587 hours (138 hrs. via mail submissions + 1,654 hrs. in person submissions + 1,794 government hrs. review). However, the hourly burden per response will remain unchanged.

*Estimate of Total Annual Burden:* The Coast Guard estimates that the total annual burden with the change to the medical certificate validity period for FCPs will be 16,286 hours a year, which is a 154-hour reduction in burden from the current corresponding collection total of 16,440 hours.

As required by 44 U.S.C. 3507(d), we will submit a copy of this rule to OMB for its review of the collection of information. You are not required to respond to a collection of information unless it displays a currently valid OMB control number.

*E. Federalism*

A rule has implications for federalism under Executive Order 13132 (Federalism) if it has a substantial direct effect on States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under Executive Order 13132 and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132. Our analysis follows.

It is well settled that States may not regulate in categories reserved for regulation by the Coast Guard. It is also well settled that all of the categories covered in 46 U.S.C. 3306, 3703, 7101, and 8101 (design, construction, alteration, repair, maintenance, operation, equipping, personnel qualification, and manning of vessels), as well as the reporting of casualties and any other category in which Congress intended the Coast Guard to be the sole source of a vessel's obligations, are within the field foreclosed from regulation by the States. *See* the Supreme Court's decision in *United States v. Locke* and *Intertanko v. Locke*, 529 U.S. 89, 120 S.Ct. 1135 (2000) (finding that the states are foreclosed from regulating tanker vessels). *See also Ray v. Atlantic Richfield Co.*, 435 U.S. 151, 157 (1978) (state regulation is preempted where "the scheme of federal regulation may be so pervasive as to make reasonable the inference that Congress left no room for the States to supplement it [or where] the Act of Congress may touch a field in



which the federal interest is so dominant that the federal system will be assumed to preclude enforcement of state laws on the same subject.” (Citations omitted). Because this rule involves the credentialing of mariners under 46 U.S.C. 7101, it relates to personnel qualifications and, as a result, is foreclosed from regulation by the States. Therefore, because the States may not regulate within these categories, this rule is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

*F. Unfunded Mandates*

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Although this rule will not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

*G. Taking of Private Property*

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630 (Governmental Actions and Interference with Constitutionally Protected Property Rights).

*H. Civil Justice Reform*

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988 (Civil Justice Reform) to minimize litigation, eliminate ambiguity, and reduce burden.

*I. Protection of Children*

We have analyzed this rule under Executive Order 13045 (Protection of Children from Environmental Health Risks and Safety Risks). This rule is not an economically significant rule and will not create an environmental risk to health or risk to safety that

might disproportionately affect children.

*J. Indian Tribal Governments*

This rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments), because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

*K. Energy Effects*

We have analyzed this rule under Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use). We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

*L. Technical Standards*

The National Technology Transfer and Advancement Act, codified as a note to 15 U.S.C. 272, directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through OMB, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

*M. Environment*

We have analyzed this rule under Department of Homeland Security Management

Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. A Record of Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble.

This rule is categorically excluded under paragraphs L56 and L54 of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev 1. Paragraph L56 pertains to regulations concerning the training, qualifying, licensing, and disciplining of maritime personnel. Paragraph L54 pertains to regulations which are editorial or procedural. This rule involves amending the maximum period of validity of merchant mariner medical certificates from 2 years to 5 years for FCPs, and masters or mates serving as pilot on vessels of 1,600 GRT or more. Additionally, the rule includes an extension of the annual physical examination submission requirement from every other year to every 5 years, as long as circumstances do not require more frequent submissions of annual physical examination results to ensure maritime and public safety.

### **List of Subjects**

#### *46 CFR Part 10*

Penalties, Personally identifiable information, Reporting and recordkeeping requirements, Seamen.

#### *46 CFR Part 11*

Penalties, Reporting and recordkeeping requirements, Schools, Seamen.

#### *46 CFR Part 15*

Reporting and recordkeeping requirements, Seamen, Vessels.

For the reasons discussed in the preamble, the Coast Guard amends 46 CFR parts

10, 11, and 15 as follows:

## **PART 10—MERCHANT MARINER CREDENTIAL**

1. The authority citation for part 10 is revised to read as follows:

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, 2110; 46 U.S.C. chapter 71; 46 U.S.C. chapter 73; 46 U.S.C. chapter 75; 46 U.S.C. 2104; 46 U.S.C. 7701, 8903, 8904, and 70105; E.O. 10173; DHS Delegation No. 00170.1, Revision No. 01.2.

### **§ 10.301 [Amended]**

2. Amend §10.301 by:

- a. Removing paragraph (b)(2) and redesignating paragraph (b)(3) as (b)(2);
- b. Redesignating paragraph (c) as paragraph (d);
- c. Redesignating paragraph (b)(4) as paragraph (c).

## **PART 11—REQUIREMENTS FOR OFFICER ENDORSEMENTS**

3. The authority citation for part 11 is revised to read as follows:

**Authority:** 14 U.S.C. 503; 31 U.S.C. 9701; 46 U.S.C. 2101, 2103, and 2110; 46 U.S.C. chapter 71; 46 U.S.C. 7502, 7505, 7701, 8906, and 70105; E.O. 10173; DHS Delegation No. 00170.1, Revision No. 01.2. Section 11.107 is also issued under the authority of 44 U.S.C. 3507.

4. Amend §11.709 by:

- a. Revising paragraph (b);
- b. Removing paragraph (c);
- c. Redesignating paragraph (d) as paragraph (c); and
- d. Adding a new paragraph (d).

The revisions and additions read as follows:

### **§ 11.709 Annual physical examination requirements.**

\* \* \* \* \*

(b) Every person holding an MMC endorsement as first-class pilot, or a master or mate serving as a pilot under §15.812 of this subchapter, must have a thorough physical examination each year. This annual physical examination must be completed by the first

day of the month following the anniversary of the individual's most recently completed Coast Guard-required physical examination. Each annual physical examination must meet the requirements specified in 46 CFR, part 10, subpart C, and be recorded on the form CG-719K.

(1) Every five years, in accordance with the medical certificate requirements in §§10.301(b), 10.302(a), and 10.304(d) of this chapter, the results of the most recent physical examination must be submitted to the Coast Guard.

(2) The results of the physical examination must also be submitted to the Coast Guard no later than 30 calendar days after completion of the physical examination in any of the following circumstances:

(i) The examining medical practitioner documents that the individual does not meet the physical ability requirements as set forth in §10.304(c) of this subchapter;

(ii) The examining medical practitioner documents that the individual has a condition that does not meet the general medical exam requirements described in §10.304(a), the vision requirements described in §10.305, or the hearing requirements described in §10.306 of this subchapter;

(iii) The examining medical practitioner documents on a CG-719K that the individual is not recommended for a medical certificate or needs further review by the Coast Guard as set forth in §10.301(a) of this subchapter; or

(iv) If the Coast Guard requests the results of an examination, they must be submitted no later than 30 calendar days after the date of the request.

\* \* \* \* \*

(d) A master or mate may not serve as a pilot on a vessel 1,600 GRT or more under §15.812 of this subchapter if the person does not meet the physical examination requirements provided in paragraph (b) of this section.

## PART 15—MANNING REQUIREMENTS

5. The authority citation for part 15 is revised to read as follows:

**Authority:** 46 U.S.C. 2101, 2103, 3306, 3703, 8101, 8102, 8103, 8104, 8105, 8301, 8304, 8502, 8503, 8701, 8702, 8901, 8902, 8903, 8904, 8905(b), 8906 and 9102; and DHS Delegation No. 00170.1, Revision No. 01.2.

### § 15.401 [Amended]

6. Amend § 15.401 by:

a. In paragraph (a), remove in the first sentence the words, “license, certificate of registry, Merchant Mariner’s Document (MMD),” and remove from the second sentence the words, “license, certificate of registry, MMD, or”;

b. In paragraph (c)(1), remove the words, “After January 1, 2017, two” and add, in its place the word, “Two”;

c. Remove paragraph (c)(2) and redesignate paragraph (c)(3) as paragraph (c)(2); and

d. In paragraphs (d) and (e), remove wherever they appear the words, “MMD or”.

7. In § 15.812, amend Table 1 to § 15.812(e)(1), by revising the second row to read as follows:

### § 15.812 Pilots.

\* \* \* \* \*

**TABLE 1 TO §15.812(e)(1)—QUICK REFERENCE TABLE FOR FEDERAL PILOTAGE REQUIREMENTS FOR U.S.-INSPECTED, SELF-PROPELLED VESSELS, NOT SAILING ON REGISTER**

	<b>Designated areas of pilotage waters (routes for which First-Class Pilot's licenses or MMC officer endorsements are issued)</b>	<b>Non-designated areas of pilotage waters (between the 3-mile line and the start of traditional pilotage routes)</b>
* * * * *		

Inspected self-propelled vessels not more than 1,600 GRT, authorized by their COI to proceed beyond the Boundary Line, or operating on the Great Lakes	First-Class Pilot, <i>or</i> Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; 2. Maintains current knowledge of the waters to be navigated; and <sup>1</sup> 3. Has four roundtrips over the route. <sup>2</sup>	Master or Mate may serve as pilot if he or she— 1. Is at least 21 years old; and 2. Maintains current knowledge of the waters to be navigated. <sup>1</sup>
* * * * *		

<sup>1</sup> One roundtrip within the past 60 months.

<sup>2</sup> If the route is to be traversed during darkness, one of the four roundtrips must be made during darkness.

\* \* \* \* \*

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